

ORIGINAL

CARLSMITH BALL LLP

DAVID LEDGER

Bank of Hawaii Bldg., Suite 401  
134 West Soledad Avenue, P.O. Box BF  
Hagåtña, Guam 96932-5027  
Tel No. 671.472.6813

Attorneys for Plaintiff  
Hanson Permanente Cement of Guam

**FILED**

DISTRICT COURT OF GUAM

JAN 26 2005

MARY L.M. MORAN  
CLERK OF COURT

11

IN THE DISTRICT COURT OF GUAM

HANSON PERMANENTE CEMENT OF  
GUAM,

Plaintiff,

vs.

KRAFTPAK, LIMITED and BRUCE  
ANSLEY, personally,

Defendants.

CIVIL CASE NO. 04-00042

**JOINT PROPOSED SCHEDULING  
ORDER AND DISCOVERY PLAN**

**JOINT PROPOSED SCHEDULING ORDER AND DISCOVERY PLAN**

Pursuant to Federal Rule of Civil Procedure 16(b), 26(f) and Local Rule of Practice 16.2, Plaintiff and Defendants hereby submit the following Joint Proposed Scheduling Order and Discovery Plan.

A. The nature of the case.

This is a breach of contract for the delivery of cement bags when although the entire contract price was paid in advance, all of the cement bags were not delivered.

On January 11, 2005, Defendant Kraftpak, Limited ("Kraftpak") filed a counterclaim for breach of contract.

B. The posture of the case.

1. There are no Motions on file.
2. No Motions have been resolved.
3. No Discovery has been initiated.

C. Status of discovery.

A Discovery Plan has been agreed to at this time. Rule 26(a)(1) Disclosures shall be due on or before February 9, 2005. On or after February 9, 2005 formal discovery shall commence.

D. N/A

E (i). Except for good cause shown, all Motions to add Parties and Claims shall be on or before December 22, 2005.

E (ii). Except for good cause shown, all Motions to Amend Pleadings shall be filed not later than December 22, 2005.

E (iii). The Scheduling Conference shall be on or before January 26, 2005, at 11:15 a.m.

E (iv). The Discovery Cutoff (defined as the last day to file responses to Discovery) is November 22, 2005. Depositions may be taken until December 23, 2005.

E (v). 1. All discovery motions shall be filed on or before January <sup>23</sup>~~22~~ 2006, and heard on or before <sup>Feb. 16</sup>~~March 5~~, 2006. *gph*

2. All dispositive motions shall be filed on or before January <sup>23</sup>~~22~~, 2006, and heard on or before February <sup>16</sup>~~5~~, 2006. *gph*

E (vi). 1. The Preliminary Pretrial Conference shall be held on March 1, 2006 (no later than 21 days before trial), at 10:00 am *gph*

2. The Final Pretrial Conference shall be held on March 15, 2006 (no later

than 7 days before trial), at 10:00 am. \* gph

E (vii). 1. The Parties' Pretrial Materials, Discovery Materials, Witness Lists, Exhibit Lists and Designation of Discovery Responses shall be filed on or before March 8, 2006 (no later than 14 days before trial).

2. The Proposed Pretrial Order shall be filed on or before March 15, 2006 (no later than 7 days before trial).

3. The trial shall begin on March 22, 2006, at 9:00 am \* gph

F. The prospects for settlement are unknown at this time.

G. There is no jury.

H. It is anticipated that it will take two (2) days to try this case.

I. The names of the counsel are:

For Plaintiff: David Ledger, Esq.

For Defendants: Robert J. O'Connor, Esq.  
Berman O'Connor Mann & Shklov  
Suite 503, Bank of Guam Building  
111 Chalan Santo Papa  
Hagåtña, Guam 96910

J. Plaintiff and Defendants by and through their Counsel have conferred and believe this case should be submitted to a settlement conference.

K. Counsel currently has no suggestions for shortening the trial.

L. The following issues will affect the status or management of the case: unknown.

M. Status Report.

The Defendants were served on or about September 23, 2004. Pursuant to FRCP 4, Defendants agreed to waive service of process and enjoy the additional time to formally answer as permitted. Defendants are a New Zealand National and a New Zealand Corporation.

Therefore, because the parties reside outside the United States they were entitled to 90 days before formally answering the case. Defendants formal answer date was December 22, 2004, which was extended by agreement of Counsel until January 11, 2005. On January 11, 2005, Defendant Kraftpak filed its Answer and Counterclaim and Defendant Ansley filed his Answer. The Scheduling Conference is to be heard on January 26, 2005 at 11:15 a.m.

### **DISCOVERY PLAN**

1. Depositions of lay witnesses may begin on or after February 9, 2005 and be taken as needed. The parties may call expert witnesses to testify.

2. Absent leave of Court, the parties may serve a maximum of 25 interrogatories. The parties may serve any number of requests for production of documents and request for admissions. Unless a shorter time is agreed to, all written discovery shall be served by a date as to afford the answering party the full response time permitted by the applicable rules prior to the Discovery Cutoff.

3. Disclosures and Depositions.

a. Disclosure of expert testimony required under Fed. R. Civ. P. 26(a)(2) shall be made not later than September 22, 2005.

b. Subsequent designation of rebuttal expert testimony under Fed. R. Civ. P. 26(a)(2) shall be made not later than October 22, 2005.

c. Depositions of experts designated under Fed. R. Civ. P. 26(a)(2) and paragraph 3.b. above, shall be completed not later than the discovery cutoff date. Depositions of rebuttal experts, if any are designated under Fed. R. Civ. P. 26(a)(2) and paragraph c. above, shall be completed not later than fourteen days after the discovery cutoff date.

d. Rule 26(a)(3) disclosures shall be made not later than 30 days before trial.

4. Other than the 25 count limit on Interrogatories, the parties do not anticipate requiring any other changes or limitations on discovery as may be imposed under Federal or Local Rules.

5. The discovery cut-off (defined as the last day to file responses to written discovery) is November 22, 2005.

Submitted this 14 day of January 2005 at Hagåtña, Guam.

CARLSMITH BALL LLP



DAVID LEDGER  
Attorneys for Plaintiff  
Hanson Permanente Cement of Guam

Submitted this 17 day of January 2005 at Hagåtña, Guam.

BERMAN O'CONNOR MANN & SHKLOV



DANIEL J. BERMAN  
Attorneys for Defendants  
Kraftpak, Limited and Bruce Ansley

**ORDER**

SO ORDERED: January 26, 2005.

**RECEIVED**

JAN 18 2005

DISTRICT COURT OF GUAM  
HAGATNA, GUAM



~~RESERVED~~ JOAQUIN V.E. MANIBUSAN, JR.  
District Court of Guam, MAGISTRATE JUDGE